

No. 23-1891

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

**HMTX INDUSTRIES, LLC, HALSTEAD NEW ENGLAND CORP.,
METROFLOR CORPORATION, JASCO PRODUCTS COMPANY
LLC,**

Plaintiffs- Appellants

v.

**UNITED STATES, OFFICE OF THE UNITED STATES TRADE
REPRESENTATIVE, KATHERINE TAI, U.S. Trade
Representative, UNITED STATES CUSTOMS AND BORDER
PROTECTION, TROY MILLER, Acting Commissioner of U.S.
Customs and Border Protection,
Defendants-Appellees**

Appeal from the United States Court of International Trade in
No. 1:20-cv-00177-3JP, Chief Judge Mark A. Barnett, Judge
Claire R. Kelly, Judge Jennifer Choe-Groves

**CONSENT MOTION OF PLAINTIFFS-APPELLANTS FOR AN
EXTENSION OF TIME TO FILE THE REPLY BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26 and Federal Circuit Rule 26(b), Plaintiffs-Appellants HMTX Industries, LLC, Halstead New England Corp., Metroflor Corporation, and Jasco Products Company LLC respectfully request that the Court grant them an extension of time of thirty days in which to file a reply brief. The current deadline to file the reply brief is Thursday, January 11, 2024. Fed. R.

App. P. 31(a)(1) (reply brief due 21 days after service of appellee's response brief). Extending the deadline by thirty days would result in Plaintiffs-Appellants' reply brief being due on Monday, February 12, 2024. This is Plaintiffs-Appellants' first request for an extension of time for this reply brief, and the Government consents to the requested extension.

Good cause exists for the requested extension. Fed. R. App. P. 26(b) (authorizing the Court to "extend the time prescribed by these rules" for "good cause"). As set forth in the accompanying declaration, counsel have significant additional client responsibilities and obligations that substantially interfere with their ability to file the reply brief by the current deadline, including (1) presenting oral argument in this Court in *Inguran v. ABS Global*, No. 22-2098 (Fed. Cir.) on January 10, 2024; (2) filing a petition for rehearing en banc in *Solar Energy Industries Association et al. v. United States*, No. 22-1392 (Fed. Cir.) on January 11, 2024; and (3) filing a response to a petition for certiorari in *Oklahoma v. United States*, No. 23-402 (U.S.) on January 17, 2024. In addition, undersigned counsel, their support staff, and Plaintiffs-Appellants' personnel have preexisting personal obligations related to the holidays,

making it difficult to coordinate with each other and finalize the reply brief by the current deadline.

Given the complexity of this case and the many parties involved, the Government sought two extensions totaling an additional 120 days to file its response brief, which this Court previously granted.

On December 22, 2023, Elizabeth A. Speck – counsel for Defendants-Appellees – represented that Defendants-Appellees consent to the requested extension.

For the foregoing reasons, Plaintiffs-Appellants respectfully request that the Court extend the time to file the reply brief by thirty days, up to and including Monday, February 12, 2024.

Respectfully submitted,

/s/ Pratik A. Shah
Pratik A. Shah
Matthew R. Nicely
James E. Tysse
Daniel M. Witkowski
Devin S. Sikes
AKIN GUMP STRAUSS HAUER
& FELD LLP

*Counsel to Plaintiffs-
Appellants HMTX
Industries, LLC, Halstead
New England Corp.,
Metroflor Corporation, and*

*Jasco Products Company
LLC*

December 22, 2023

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DECLARATION OF PRATIK A. SHAH

In support of Plaintiffs-Appellants' Consent Motion for an Extension of Time to File the Reply Brief, Pratik A. Shah declares pursuant to 28 U.S.C. § 1746 as follows:

1. I am the lead attorney for Plaintiffs-Appellants in this appeal.
2. I am working with counsel at my firm, counsel at other firms who serve on the Steering Committee established in the

underlying litigation before the U.S. Court of International Trade, and client personnel to reply to the response brief filed by Defendants-Appellees in this appeal.

3. On December 22, 2023, I contacted Elizabeth A. Speck, lead counsel to Defendants-Appellees, to obtain her position on this Motion. Ms. Speck stated that Defendants-Appellees consent.
4. Good cause supports this request for an additional 30 days for Plaintiffs-Appellants to file their reply brief. Specifically, additional time is required due to significant additional client responsibilities and obligations that substantially interfere with their ability to file the reply brief by Thursday, January 11, 2024, as set forth in the body of the motion.
5. In addition, undersigned counsel, their support staff, and Plaintiffs-Appellants' personnel have preexisting personal obligations related to the holidays, making it difficult to coordinate with each other and finalize the reply brief by the current deadline.

6. The requested 30-day extension to February 12, 2024, will not prejudice any party.

I certify that the foregoing is true and correct to the best of my knowledge and belief.

Executed: December 22, 2023

/s/ Pratik A. Shah
Pratik A. Shah

FORM 9. Certificate of Interest

Form 9 (p. 1)
March 2023

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

CERTIFICATE OF INTEREST

Case Number 23-1891

Short Case Caption HMTX Industries LLC v. US

Filing Party/Entity Appellants HMTX Industries LLC; Halstead New England Corp.;
Metroflor Corp.; and Jasco Products Company LLC

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 05/25/2023

Signature: /s/ Pratik A. Shah

Name: Pratik A. Shah

FORM 9. Certificate of Interest

Form 9 (p. 2)
March 2023

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. <input checked="" type="checkbox"/> None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. <input type="checkbox"/> None/Not Applicable
HMTX Industries LLC		SMYNTH Trust; HMTX Acquisition LLC
Halstead New England Corp.		SMYNTH Trust; HMTX Acquisition LLC; HMTX Industries LLC
Metroflor Corp.		SMYNTH Trust; HMTX Acquisition LLC; HMTX Industries LLC
Jasco Products Company LLC		None

Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
March 2023

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

<input type="checkbox"/> None/Not Applicable	<input type="checkbox"/> Additional pages attached
Sarah B. W. Kirwin, Akin Gump Strauss Hauer & Feld LLP	

5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

Yes (file separate notice; see below) No N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

<input checked="" type="checkbox"/> None/Not Applicable	<input type="checkbox"/> Additional pages attached

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion (i) was prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook type style, and (ii) contains 357 words. It therefore complies with Federal Rule of Appellate Procedure 27(d) and Federal Circuit Rule 27(a).

December 22, 2023

/s/ Pratik A. Shah
Pratik A. Shah

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court of the United States Court of the Federal Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the CM/ECF system.

December 22, 2023

/s/ Pratik A. Shah
Pratik A. Shah